

Ord. #11-2013

AN ORDINANCE OF THE TOWNSHIP OF MOUNT OLIVE, IN THE COUNTY OF MORRIS AND STATE OF NEW JERSEY, VACATING CERTAIN ROADWAYS IN THE MORRIS CHASE SUBDIVISION ERRONEOUSLY CONVEYED TO THE TOWNSHIP, AUTHORIZING THE CONVEYANCE OF THE SAID ROADWAYS BY THE TOWNSHIP TO MORRIS CHASE HOMEOWNERS ASSOCIATION, INC., AND AUTHORIZING THE ACCEPTANCE BY THE TOWNSHIP OF AN EASEMENT IN SAID ROADWAYS FROM MORRIS CHASE HOMEOWNERS ASSOCIATION, INC.

WHEREAS, by Deed of Dedication dated June 14, 2010 and recorded in the Office of the Morris County Clerk on July 8, 2010 at Deed Book 21575, Page 731, certain roadways in the Morris Chase subdivision (more particularly described in Schedule A, on file in the office of the Township Clerk) were conveyed to the Township by Toll NJ II, L.P. and the Morris Chase Homeowners Association, Inc. (“Homeowners Association”); and

WHEREAS, pursuant to the Declaration of Covenants and Restrictions for Morris Chase, dated August 19, 2008 and recorded on August 28, 2008 at File Number 2008063735, Book 21147, Page 0231 with the Morris County Clerk, said roadways were to have remained the property of Homeowners Association subject to the grant of public easements therein; and

WHEREAS, Homeowners Association has requested the Township to vacate the public rights in the roadways that were erroneously conveyed as aforesaid, to convey title to the said properties to Homeowners Association, and thereupon to accept a Deed of Easement in and to said roadways from Homeowners Association for public access and use; and

WHEREAS, the Township Engineer of Mount Olive has verified that Schedule A to this Ordinance (on file in the office of the Township Clerk) accurately identifies the roadways to which Homeowners Association should possess title under the terms and conditions of the final

subdivision approval for the Morris Chase subdivision and the aforementioned Declaration of Covenants and Restrictions for Morris Chase, subject to the grant of public easements therein; and

WHEREAS, the Township Council of the Township of Mount Olive does hereby determine that vacation of the public rights in the said roadways, conveyance of same to Homeowners Association, and acceptance of a Deed of Easement therein from Homeowners Association will be in accordance with the terms and conditions of the final subdivision approval for Morris Chase, the Declaration of Covenants and Restrictions for Morris Chase, and will serve the public interest; and

WHEREAS, N.J.S.A. 40:67-19 authorizes the Township to release and extinguish the public rights in the roadways identified in Schedule A (on file in the office of the Township Clerk), subject to the reservation of such rights and privileges as are possessed by public utilities and any cable television company to maintain, repair and replace their facilities in, adjacent to, over or under the vacated portions of the roadway.

NOW THEREFORE BE IT ORDAINED, the Township Council of the Township of Mount Olive, in the County of Morris and State of New Jersey, as follows:

SECTION 1. The public rights and interests in and to those roadways of the Morris Chase subdivision more fully described in **Schedule A** (on file in the office of the Township Clerk) are hereby vacated, abandoned and released; provided, however, that all rights and privileges possessed by public utilities, as defined by R. S. 48:2-13, and by any cable television company, as defined in the Cable Television Act, P.L. 1972, c.186 (N.J.S.A. 48:5A-1 et seq.) to

maintain, repair and replace facilities in, adjacent to, over or under the aforementioned portions of said roadway, are hereby expressly reserved from vacation.

SECTION 2. The Mayor and Township Clerk are hereby authorized and directed to execute a deed conveying to Homeowners Association all ownership rights, title and interest possessed by the Township in and to such roadways and, simultaneously therewith, to accept from Homeowners Association a grant of easement in and to such roadways for public access, egress and use.

SECTION 3. The appropriate municipal officials are hereby authorized to execute any additional collateral documents necessary to effectuate the purposes of this ordinance.

SECTION 4. At least seven (7) days prior to the time fixed for the consideration of this Ordinance for final passage, a copy of this Ordinance, together with a notice of its introduction and the time and place when and where the Ordinance will be further considered for final passage, shall be given by the Township Clerk to the owners of all real property, as shown on the current tax map duplicates, to be located within 200 feet in all directions of the aforementioned properties. This notice is required by N.J.S.A. 40:67-19 and 40:49-6.

SECTION 5. The Township Clerk shall within sixty (60) days after such ordinance becomes effective, file with the Clerk of Morris County a copy of said ordinance together with Schedule A and a copy of a proof of publication thereof so that same may be recorded and the requirements of N.J.S.A.40:67-21 shall be complied with all in respects.

SECTION 6. All ordinances of the Township of Mount Olive which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 7. If any section, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid by any court or competent jurisdiction, such decision shall not affect the remaining portion of this ordinance.

SECTION 8. This Ordinance may be renumbered for purposes of codification.

SECTION 9. This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

ATTEST:

**TOWNSHIP OF MOUNT OLIVE
COUNTY OF MORRIS
STATE OF NEW JERSEY**

Lisa Lashway, Clerk

Colleen Labow, Council President